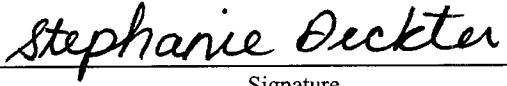


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number: 06975-058001
I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450. Date of Deposit Signature Typed or Printed Name of Person Signing Certificate	Application Number 09/690,007	Filed October 17, 2000
	First Named Inventor Harry Morris et al.	
	Art Unit 2151	Examiner Kamal B. Divecha
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a Notice of Appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record <u>58,652</u> (Reg. No.)</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34</p>		
<p style="text-align: right;">  Signature Stephanie M. Deckter Typed or printed name (202) 783-5070 Telephone number August 31, 2006 Date </p>		
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below'.</p>		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Harry Morris et al. Art Unit : 2151
Serial No. : 09/690,007 Examiner : Kamal B. Divecha
Filed : October 17, 2000 Conf. No. : 1832
Title : DISPLAYING ADVERTISEMENTS IN A COMPUTER NETWORK
ENVIRONMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to United States Patent and Trademark Office OG Notices: 12 July 2005 - New Pre-Appeal Brief Conference Pilot Program, a request for a review of identified matters on appeal is hereby submitted with the Notice of Appeal. Review of these identified matters by a panel of examiners is requested because the rejections of record are clearly not proper and are without basis, in view of a clear legal or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

Claims 1-28, 55-57, and 54-74 are pending, with claims 1, 15, and 55 being independent. Claims 1-28, 55-57, and 64-74 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Blumenau (U.S. Patent No. 6,108,637) in view of Guyot (U.S. Patent No. 6,119,098) and Moraes (U.S. Patent No. 6,014,502).

Applicants respectfully traverse this rejection.

Applicants specifically ask the panel to review the following issues:

1. The proposed combination of Moraes, Blumenau, and Guyot fails to support the presently pending rejection of claims 1-28, 55-57 and 64-74 under 35 U.S.C. § 103(a) as none of these references disclose or suggest, expressly or inherently, at least one feature recited by those claims – namely, varying an amount of display time for which an advertisement is to be displayed on a viewer's associated computer system, and thus, their combination also fails to suggest at least this feature.

Discussion of Issues:

1. The proposed combination of Moraes, Blumenau, and Guyot fails to support the presently pending rejection of claims 1-28, 55-57, and 64-74 under 35 U.S.C. § 103(a) as none of these references disclose or suggest, expressly or inherently, at least one feature recited by those claims – namely, varying an amount of display time for which an advertisement is to be displayed on a viewer's associated computer system, and thus, their combination also fails to suggest at least this feature.

In the independent claims, Applicants claim varying an amount of display time for which an advertisement is to be displayed on a viewer's associated computer system based on the viewer's interactions with, and use of, the associated computer system.

This feature is not disclosed or suggested by any of the cited references, nor is it suggested by the proposed combination thereof. To demonstrate this, Applicants first address each reference individually, showing the failing of each reference to disclose this feature. Then, Applicants demonstrate that the combination of the references, like its constituent parts, is similarly devoid of disclosure or suggestion of this feature.

Moraes does not disclose varying an amount of display time for an advertisement. Instead of displaying an advertisement for a varying amount of time, Moraes discloses a system that displays advertisements for a “predetermined” amount of time. See Moraes at col. 13, lines 44-47.

In greater detail, Moraes describes a “predetermined time” in col. 13, stating that “[e]ach banner advertisement is displayed for a predetermined time and in accordance with a schedule that is preset or determined by the client user ‘on-the-fly’.” See Moraes at col. 13, lines 44-47. The conjunction “and” in this sentence separates two thoughts. First, advertisements are always displayed for a predetermined amount of time, and thus the amount of time for which the advertisements are displayed does not vary. Second, advertisements are displayed for the predetermined time based on a schedule, which schedule may itself be predetermined or which schedule may instead be determined on an ad hoc basis.

As such, and without wavering, Moraes discloses a system that displays an advertisement for a *predetermined*, or fixed, amount of time. The *schedule* for when an advertisement is to be displayed may be determined *on-the-fly*. However, an on-the-fly determination of a schedule that prescribes *when* an advertisement is to be displayed (e.g., at what time of day) does not

suggest that the *amount of time* for which the advertisement is to be displayed (e.g., 30 seconds) is also determined on-the-fly. Rather, Moraes explicitly discloses that the *amount of time* for which an advertisement is to be displayed, regardless of when it is to be displayed based on the schedule, is *predetermined*. Therefore, Moraes fails to describe or suggest varying an amount of display time for which an advertisement is to be displayed on a viewer's associated computer system, as claimed.

Specifically, in attempting to demonstrate that Moraes discloses variation of advertisement display time, the final Office action cites to col. 19, line 9 to col. 20, line 56. Yet even this portion of Moraes suggests that replacement of advertisements is nonvariably performed "after a predetermined time." See Moraes at col. 19, lines 45-49. Furthermore, the Advisory Action contends that disclosure by Moraes that "[e]xpired advertisements may be overwritten" at col. 19, lines 9-49, amounts to a disclosure of "varying the amount of time for which an advertisement is displayed." See Advisory Action of August 9, 2006 at page 3 (emphasis in original). However, the section of Moraes that describes overwriting expired advertisements does so solely in relation to storing new advertisements on a storage device, such that an advertisement stored on the storage device may be overwritten if the advertisement is expired. See Moraes at col. 19, lines 40-45. Disclosure by Moraes of a capability for overwriting, or replacing, advertisements stored on a storage device based on whether the stored advertisement is expired does not in any way relate to, describe, or suggest, varying an amount of time for which an advertisement is displayed.

As such, none of the portions of Moraes cited in the final Office action or the Advisory Action satisfactorily rebut Applicants' argument that Moraes fails to describe or suggest varying an amount of display time for an advertisement, as claimed. Furthermore, Moraes' failure to disclose variation in advertisement display duration precludes disclosure by Moraes of variation based on monitoring a viewer's interactions with an associated computer system, as also claimed.

The final Office action explicitly recognizes that "the combination of Blumenau and Guyot did not expressly [describe] varying an amount of display time (duration or length of advertisement display time)," and, in fact, neither of these references disclose this feature. See final Office action of May 31, 2006 at page 4. Instead, Blumenau describes monitoring a display of content to determine information regarding the observation by a user of the displayed content.

See Blumenau at abstract. However, and as the final Office action recognizes, Blumenau does not describe or suggest varying an amount of time content is displayed based on the described monitoring. Guyot describes monitoring keyboard and mouse activity on a subscriber's computer to *schedule* the display of advertisements. See Guyot at col. 2, lines 9-14. However, and as the final Office action recognizes, Guyot does not describe or suggest varying an amount of time for the display of advertisements, but rather, like Moraes, Guyot merely uses the described monitoring to schedule *when* advertisements are displayed, not for *how long*.

For these deficiencies, the Office action relies on Moraes. See final Office action of May 31, 2006 at page 4. However, and as described in detail above, Moraes fails to describe or suggest this feature.

Accordingly, the combination of Blumenau, Guyot, and Moraes fails to disclose the missing feature, and thus fails to support the presently pending rejection of claims 1-28, 55-57, and 64-74 under 35 U.S.C. § 103(a). For at least these reasons, Applicants respectfully request withdrawal of the § 103(a) rejection of claims 1-28, 55-57 and 64-74.

In view of the above, the pending claims should be in condition for allowance. A formal notice of allowance is thus respectfully requested.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 8/31/06

Stephanie Deckter
Stephanie M. Deckter
Reg. No. 58,652

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331